

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA et al.,
Petitioners,

vs.

STATE OF WASHINGTON et al.,
Respondent.

Case No. C70-9213

Subproceeding No. Pending

DECLARATION OF
LORRAINE LOOMIS

I, Lorraine Loomis, declare as follows:

Background and Qualifications

1. I am Lorraine Loomis. My Indian name is Itakbix. I am an enrolled member of the Swinomish Indian Tribal Community (Swinomish or Tribe), one of the tribal plaintiffs in this case. I was born and raised on the Swinomish Reservation, currently reside on the Reservation, and have lived on the Reservation for all but 10 years of my life.

2. The Swinomish Reservation is located on Fidalgo Island in Skagit County, Washington. The southern boundary of the Reservation is in Skagit Bay near where the North Fork of the Skagit River drains to Puget Sound. The western boundary of the Reservation is also in Skagit Bay across from Deception Pass, a very beautiful but very dangerous pass through which those wishing to enter Skagit Bay from the west must navigate. The eastern boundary of the Reservation is in the Swinomish Channel, a dredged and channelized prehistoric slough through

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1 which those wishing to enter Skagit Bay from the north must navigate. The northern boundary
2 of the Reservation is in Fidalgo Bay and Padilla Bay, more open marine waters to the south of
3 the San Juan Islands.

4 3. Swinomish has about 1,000 enrolled members, most of whom live on or near the
5 Reservation. In the past, I was elected by the membership to serve on the Swinomish Senate, the
6 governing body of the Tribe, for 15 years.

7 4. For the last 43 years, I have been employed by the Tribe as the Swinomish Fisheries
8 Manager. In that position, I am responsible for the overall management and regulation of
9 Swinomish treaty fisheries, including off-Reservation fisheries for finfish and shellfish. I
10 oversee a staff of fisheries biologists and technicians; participate in preseason planning; develop
11 internal, inter-tribal, and state-tribal management plans for all of the fisheries the Tribe
12 participates in; conduct test fisheries; establish regulations for and open and close the Tribe's
13 fisheries; issue various permits and licenses to Swinomish fishers; register Swinomish fishing
14 vessels; conduct in-season updates; monitor harvest by the Tribe, other tribes, and non-treaty
15 fishers; and do many other tasks related to the Tribe's treaty fisheries.

16 5. In addition, a large part of my job involves complex negotiations with other tribes, the
17 State of Washington, the United States government, and international organizations regarding the
18 regulation and conduct of various fisheries. I describe some examples below, but there are
19 others I could list as well.

20 a. At the local intertribal level, I am a board member of the Skagit River System
21 Cooperative (SRSC), a consortium formed in 1975 by the Skagit River treaty tribes that is
22 dedicated to the health of salmon habitat and salmon fisheries on the Skagit River, which is
23 crucial to our fishing activities. SRSC employs about 40 fisheries scientists and technicians who
24 work on research, habitat restoration, harvest management, improvement of forest practices and
25 water quality, and the like. I oversee the work of this staff.

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1 b. At the regional intertribal level, I have been a commissioner of the Northwest
2 Indian Fish Commission (NWIFC) since 1978. NWIFC is an entity formed by all twenty of the
3 tribes in western Washington that have treaty fishing rights, which assists and supports the tribes
4 in their roles as co-managers of all fisheries in the state. I became the vice-chair in 1995 and the
5 chair in 2014 after Billy Frank's passing.

6 c. At the statewide level, I am the tribal co-chair of the "North of Falcon" process, in
7 which the treaty tribes and the State of Washington come together annually to decide on fishery
8 seasons, openers, and harvest quotas for all of the treaty and non-treaty salmon fisheries which
9 occur north of Cape Falcon in northern Oregon, from the offshore limit of the states' jurisdiction
10 to the terminus of each salmon-bearing stream. The process results in a large "List of Agreed
11 Fisheries" or LOAF that allows for the treaty tribes and the State of Washington to each achieve
12 the harvest of its 50% share of the harvestable surplus of each species of salmon, as ordered by
13 this Court and affirmed by the United States Supreme Court. I have co-chaired this North of
14 Falcon process on behalf of the Washington treaty tribes for many years. Other co-management
15 processes result in agreed or otherwise allowable fisheries targeting various species of shellfish
16 in the state.

17 d. At the national and international level, I am the vice-chair of the U.S. delegation
18 to the Pacific Salmon Commission Fraser River Panel, which oversees United States' and
19 Canadian harvest of Fraser River salmon species. I have served on the panel since 1988, at times
20 in the capacity of chair of the U.S. delegation.

21 6. I learned to fish when I was a young child and have fished for finfish and shellfish ever
22 since. I have fished for subsistence, ceremonial, and commercial purposes. I have fished in the
23 Skagit River, in some of its tributaries, and at the River's mouth. I have also fished in Skagit
24 Bay, Saratoga Passage, and other fresh and marine waters in northern Puget Sound.

1 7. The Skagit River is the third-largest river in the western United States and the only river
2 in the lower 48 states that still has runs of all six species of Pacific salmon – Chinook, sockeye,
3 pinks, coho, chum, and steelhead – and I have fished them all. In addition to salmon species, I
4 have fished for halibut and many shellfish species, including various species of crab, prawns, and
5 clams.

6 8. Even though I am employed full-time and have significant international, national,
7 regional, and local commitments, I still own two fishing boats and continue to harvest finfish and
8 shellfish commercially and for subsistence and ceremonial purposes when the Tribe's treaty
9 fisheries are open.

10 9. In my capacity as the Swinomish Fisheries Manager for over four decades, in light of my
11 service with various intergovernmental fisheries agencies including those described above, and
12 in light of my extensive treaty fishing experience, I have become familiar with Swinomish
13 fishers; historic and current Swinomish fishing practices; the role of fishing in the Swinomish
14 economy, culture, spiritual beliefs, and subsistence practices; the regulation and management of
15 Swinomish fisheries; the legal and governmental framework in which Swinomish fisheries
16 operate; and the environmental and habitat threats to the health of the fishery as a whole. I have
17 also gained knowledge of and familiarity with these matters as they relate to other treaty and
18 non-treaty fisheries, including treaty fisheries conducted by Tulalip, Upper Skagit, Suquamish,
19 and Lummi.

20 Swinomish Treaty Fishing Rights

21 10. In a series of treaties with the United States government in 1854 and 1855, the Indian
22 tribes of Puget Sound and the Washington coast ceded their aboriginal lands to the United States,
23 retained reservations of land to be the tribes' permanent homelands, and guaranteed their rights
24 to fish, hunt, and gather forever.

11. Swinomish is a party to one of these treaties, the 1855 Treaty of Point Elliott (Treaty). I am a direct descendant of three tribal leaders who signed the Treaty: Chief Goliah on my father's side, Chief Seattle also on my father's side, and Chief Kwallattum on my mother's side.

12. Article 5 of the Treaty guarantees Swinomish "the right of taking fish at usual and accustomed grounds and stations," commonly referred to as U&As. Swinomish's marine U&As extend from the Canadian border to the waters south, west, and east of Whidbey Island, and include but are not limited to all of the waters in Shellfish Region 1 and Shellfish Region 2 East (Region 2E). A true and correct copy of a map prepared by the Washington Department of Fish and Wildlife (WDFW) depicting Regions 1 and 2E and their subareas is attached to this declaration as Exhibit 1.

Importance of Treaty Fishing to the Tribe and Tribal Members

13. In preparing this declaration, I asked my staff to compile certain information relating to the Tribe's fisheries. This information is maintained by the Tribe's Fisheries Department in the regular course of its business and is presented in summary tables or otherwise described in this declaration.

14. Swinomish is today, and always has been, very much a fishing community. Historically, much of our subsistence came from fishing, including shellfishing. Many of our villages and camps were located along the Skagit and Samish Rivers and their tributaries, at the mouths of the Skagit and Samish Rivers, and along marine shorelines in northern Puget Sound, including the shore of Whidbey Island and other shorelines in Region 2E. Our elders always taught us that "when the tide is out, the table is set," something that is as true today as it was at treaty time.

15. Many Swinomish tribal members continue to engage in some form of fishing on an annual basis. The following table demonstrates a high level of tribal member participation in the Tribe's treaty fisheries in 2017:

Table 1.

Fishery	Commercial Fishers	Subsistence Fishers	Ceremonial Fishers	Total Number of Fishers
Salmon	117	0*	0**	117
Halibut	109	20*	3**	132
Crab	210	0*	4**	214
Shrimp	111	2*	3**	116
Geoduck and Other Clam Species	51	73***	7**	131
Urchins and Cucumbers	12	0*	0*	12

*Swinomish tribal members who engage in commercial fisheries usually do not obtain separate subsistence permits. Instead, a portion of their catch is not sold but is instead kept for subsistence purposes and is accounted for as "take-home" catch on fish tickets and in the TOCAS catch reporting system maintained by NWIFC.

** The Tribe frequently acquires ceremonial fish through its required test fisheries or authorizes one or more tribal members to engage in special ceremonial fisheries on behalf of the Tribe. Occasionally, individual families or fishers will require ceremonial fish and will obtain individual ceremonial permits.

*** With the exception of geoduck, the Tribe has very limited commercial clam fisheries. As a result, the Tribe issues substantially more subsistence clam permits than it issues for other, non-clam species.

Some fishers are engaged full time in the various tribal fisheries, while others fish part time during certain seasons to supplement income from other sources.

16. As Table 1 indicates, Swinomish commercial fishers pursue every available commercial harvest in Swinomish U&As. The species of primary importance are the six salmon species and crab.

17. Swinomish fishing methods vary with the fishing location and the species being harvested. Fishers use seines and drift gillnets to take salmon, set-lines for halibut, and use pots for crab and shrimp. In addition, fishers dive for geoduck, sea urchins, and sea cucumbers and dig for other species of clams and oysters.

18. Many fishery openings throughout the year, especially for salmon, halibut, crab, and shrimp, are of extremely short duration – a few days or even a few hours.

19. The Tribe's commercial fisheries are a critical part of the Tribe's overall economy. The table below summarizes the total catch in and value of the Tribe's commercial fisheries in 2016 (a year when pink salmon did not return) and 2017 (a year when pink salmon did return):

Table 2.

Fishery	2016 Harvest Volume*	2016 Commercial Value	2017 Harvest Volume*	2017 Commercial Value
Salmon	22,909	\$433,463	65,470	\$691,425
Halibut	22,404	\$163,838	19,661	\$135,108
Crab	1,262,368	\$5,963,925	1,272,532	\$6,069,129
Shrimp	76,389	\$607,462	89,661	\$746,397
Geoduck and Other Clam Species	72,064	\$685,424	6,511**	\$7,450**
Urchins and Cucumbers	20,382	\$113,594	106,756	\$252,376
TOTAL		\$7,967,706		\$7,901,885

* The harvest volumes in this table reflect the number of fish taken for salmon and the number of pounds taken for all other species.

** The Tribe did not harvest geoduck during the 2017 calendar year.

20. Since almost every Swinomish household includes a commercial fisher, the income generated by the Tribe's commercial fisheries is diffused throughout the entire tribal community. A decline in the Tribe's commercial fisheries would seriously affect the Tribe's economy and the Tribe as a whole.

21. While the revenue generated by the Tribe's commercial fisheries is obviously important, the commercial fisheries benefit Tribal members and the Tribe itself in other, non-economic ways. The ability to participate in the Tribe's commercial fisheries allows our people to stay gainfully employed in deeply meaningful and rewarding work that is a central part of our history, identity, culture, and spirituality, as I explain in greater detail below. This provides an important counterbalance to many of the social ills that have befallen our people as the result of historical and intergenerational trauma, including drug and alcohol addiction. Many of the commercial

1 fishers hire operators and deckhands, who must also be Swinomish members. By doing so, they
2 not only provide employment opportunities for other Tribal members, but also provide
3 opportunities to participate in the exercise of the Tribe's Treaty rights for Tribal members who
4 do not own their own boats and otherwise might not be able to participate in the Tribe's treaty
5 fisheries at all, depriving them of the birthright that my ancestors and other treaty signers fought
6 so hard on the treaty grounds to ensure. Additionally, the Tribe taxes the sale of fish. This is
7 one of the only potential tax revenue streams that the Tribe has at its disposal, and taxing the sale
8 of fish is an important aspect of the Tribe's inherent authority and sovereignty. In these and
9 other ways, the Tribe's commercial fisheries provide widespread non-economic benefits to our
10 entire community.

11 22. The economic and non-economic impact of the Tribe's commercial fisheries is very
12 important, but it is not the only value of the Tribe's treaty fisheries, nor, in the end, is it the most
13 important one. The Boldt Decision and the court decisions following it have identified four basic
14 values associated with the Treaty fishing right: (1) conservation value of the resource; (2)
15 ceremonial, religious, and spiritual values; (3) subsistence; and (4) commercial value.

16 23. As a fisheries manager, I address the conservation value of the resource every day, and
17 the tribes collectively have invested significant time, energy, and resources into conserving the
18 resource and protecting the habitat upon which it depends. This is particularly true of
19 Swinomish, as a quick Google search will reveal. I have already talked about the commercial
20 value of the Treaty right. I want to turn now to the subsistence and ceremonial, religious, and
21 spiritual aspects of the Tribe's treaty fisheries.

22 24. Our fisheries are an important source of food for Tribal members. As noted in Table 1
23 above, the commercial fisheries have a significant subsistence component since all commercial
24 fishers reserve from their catches fish for their families and for others in the community. We
25 also have separate subsistence fisheries. Sharing the bounty of the sea is a deeply engrained

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1 spiritual and cultural tradition of the Coast Salish. This is particularly true at Swinomish, where
2 the Skagit and Samish Rivers, the adjacent tidelands, and the strong marine fisheries close to the
3 Swinomish Reservation presented an abundance of fisheries resources. One of our spiritual
4 teachings is that the Creator will bless us if we give a portion of our catch away as a gift to our
5 extended family, elders, those who are ill, or others in our community that cannot fish for
6 themselves. Our people thrive as a community around the sharing of food, and the subsistence
7 fishery (including the take-home component of the commercial fisheries) and our spiritual and
8 cultural teachings sustain the circulation of food throughout our entire community and ensure
9 that fish ends up on the plates of every Swinomish tribal member, even if they didn't catch it
10 themselves.

11 25. Fishing is a central part of our people's spirituality in other ways as well. Since time
12 immemorial, our people conducted a first salmon ceremony and blessing of the fleet every
13 spring. This ceremony is essentially a religious rite to thank the Creator for blessing us with
14 salmon and all of the other fish we take from our rivers and the sea, to ensure that our fish
15 always return to us and that our fisheries are bountiful, and to protect our fishers in the coming
16 year. Our ancestors taught us that if our fisheries are harmed, our people will suffer. This
17 knowledge and all of our religious beliefs and rites were passed down from generation to
18 generation and still exist today. Just two weeks ago, the Tribe conducted its first salmon
19 ceremony and blessing of the fleet and returned cedar baskets containing all of the types of fish
20 and shellfish we harvest to the four corners of our U&As to ask the Creator for bounty and safety
21 in the coming fishing season.

22 26. The Tribe's ceremonial fisheries are regulated and the catch counts toward our 50%
23 treaty share. But it is as a community member and a tribal leader that I most appreciate the
24 significance of the ceremonial fishery. Feasting on the bounty of our rivers and sea is a central
25 feature of every Swinomish ceremony or gathering. It marks every important milestone in our

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1 people's lives – birth, naming, marriage, and even death – and every important community event.
 2 The ceremonies are an integral part of our culture, and the ceremonial food is essential to the
 3 ceremonies.

4 27. Fishing and shellfishing are also a very important part of our culture and identity. I, like
 5 nearly every Swinomish member I know, learned to fish from my family and taught my children,
 6 nephews and nieces, and many other younger relatives to fish. Learning how to fish from our
 7 elders and passing these lessons down to our descendants is critical to maintaining our culture
 8 and identity as a people and the physical and spiritual wellbeing of our people.

9 28. The act of fishing, the circulation of harvest within the community, and the importance of
 10 fish and shellfish to Swinomish cultural and spiritual life give our Treaty fishing rights a value
 11 that far transcends the economic value of the commercial fisheries. The Treaty fishing right was
 12 meant to preserve our culture and way of life revolving around fishing and the fish harvest. As a
 13 fisheries manager, I am always mindful of the need to preserve our Treaty fishing right and our
 14 historic fisheries in order to preserve our survival and identity as a tribe.

15 Impact of Lummi Regulation 2018-27 on Swinomish Treaty Fishing Rights

16 29. On May 17, 2018, Lummi issued regulation 2018-27 purporting to open Region 2E to
 17 Lummi crab harvest beginning on May 31, 2018 at 8:00 A.M. A copy of the regulation is
 18 attached to this declaration as Exhibit 2. According to the regulation, Lummi has authorized its
 19 fishers to fish in Region 2E for 60 hours.

20 30. Swinomish fisheries in Region 2E are particularly important to Swinomish and its
 21 members because the waters of Region 2E, and Skagit Bay in particular, are Swinomish's home
 22 waters. As noted above, the Swinomish Reservation boundary extends west and south into
 23 Skagit Bay and at Treaty time, the tribe controlled access into Skagit Bay through Deception
 24 Pass and Swinomish Channel (then Slough).

1 31. From ancient times, Swinomish and its ancestors have conducted beach seine fisheries
2 for pink salmon at a place called Lone Tree Point on the shore of Skagit Bay. Still today, there
3 are large family encampments at Lone Tree Point for weeks at a time during the pink run. This
4 is the only location where the Tribe conducts this type of fishery, and it is the only location
5 where we can teach our young ones this method of fishing. Protecting Swinomish's treaty
6 fishing rights in Skagit Bay in particular and Region 2E more generally is one of the most
7 important jobs that I have as a fisheries manager so that the Tribe can always continue to conduct
8 its ancient fisheries in these waters.

9 32. Swinomish engages in a considerable part of its fishing effort in Region 2E. In the 2017-
10 2018 season, approximately 210 Tribal members fished for crab in Region 2E. That constitutes
11 around 21% of the Swinomish membership, or about 1 in 5 of every Swinomish man, woman,
12 and child. The crab fishery in Region 2E generates relatively more effort than Swinomish crab
13 fisheries located elsewhere because of the proximity and importance of Region 2E waters, and
14 Skagit Bay in particular, to the Tribe.

15 33. Swinomish also takes a significant part of its crab harvest in Region 2E. In the 2017-
16 2018 season, the Tribe took 704,212 pounds of crab commercially in Region 2E. That is 55%
17 of Swinomish's entire commercial crab harvest in the 2017-2018 season and equates to
18 approximately 3,353 pounds per fisher and 704 pounds per tribal member. The fishery generated
19 revenue of \$3,271,449, which was over half of all revenue generated from Swinomish
20 commercial crab fisheries that season and equates to approximately \$3,271 per tribal member.

21 34. Swinomish has had subsistence, ceremonial, and/or commercial crab fisheries in Region
22 2E in every year since its U&As were determined by Judge Boldt in 1975. Tulalip and Upper
23 Skagit have also consistently conducted crab fisheries in Region 2E since their U&As were
24 determined by the Court. In contrast, Lummi has never once conducted a crab fishery in Region
25 2E since its U&As were determined by Judge Boldt in 1974.

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1 35. Allowing Lummi to engage in crab fishing in Region 2E beginning on May 31, 2018,
 2 will cause substantial harm to Swinomish and the other tribes with established crab fisheries in
 3 Region 2E for the reasons described below.

4 36. *Reduced harvest*: Because the tribes currently fishing for crab in Region 2E take the
 5 entire 50% tribal share of the quota every year, new participation in the fishery by Lummi fishers
 6 will necessarily reduce the amount of harvest available to the other tribes, including Swinomish.
 7 This is especially true because of the size of the Lummi fleet. In 2013, Lummi prepared answers
 8 to a questionnaire regarding its treaty fishing in northern Puget Sound. A copy of those answers
 9 is attached to this declaration as Exhibit 3. The answers indicate that the Lummi crab fleet
 10 consists of 167 vessels. See Exhibit 3, Table 7. This is more than double the size of the
 11 Swinomish crab fleet and is larger than the Swinomish, Tulalip, and Upper Skagit crab fleets
 12 combined. New crab harvest by a fleet of this size would cause substantial reductions in the
 13 amount of harvest Swinomish and the other tribes with established fisheries can take for
 14 commercial purposes and would reduce the amount of crab on our plates and available for our
 15 ceremonies.

16 37. *Lower price*: Increased volume of crab on the market causes the price to fall, sometimes
 17 significantly. If Lummi were to participate in the fishery and the amount of crab harvested were
 18 to increase significantly, as is likely given the size of the Lummi fleet, this would reduce the
 19 overall value of the fishery to the Tribe and its members and the amount of tax revenue collected
 20 by the Tribe.

21 38. *Loss of fishing opportunity*: If Lummi participates in the fishery, Swinomish and the other
 22 tribes currently fishing in Region 2E would need to significantly scale back our fisheries in order
 23 to stay within the 50% tribal share of the quota. For example, on May 17, 2018, after extensive
 24 pre-season planning and before the tribes had any inkling that Lummi was intending to fish for
 25 crab in Region 2E this season for the first time ever, Swinomish and the other Region 2E tribes

1 issued regulations opening a 60-hour commercial crab fishery in Region 2E beginning on May
 2 31, 2018. A copy of those regulations is attached as Exhibit 4. Now that Lummi has issued a
 3 regulation also opening Region 2E to crab harvest for 60 hours beginning on May 31, there is a
 4 real possibility that the tribes collectively will exceed, and perhaps exceed significantly, the 50%
 5 tribal share of the quota during that 60-hour fishery. In order to prevent that result, Swinomish
 6 and the other Region 2E tribes repeatedly asked that Lummi withdraw its regulation so that the
 7 tribes can engage in further settlement discussions. When those efforts failed, Swinomish,
 8 Tulalip, Upper Skagit, and Suquamish issued amended regulations on May 29, 2018 delaying the
 9 fishery and shortening its duration by 12 hours in order to reduce the expected harvest. A copy
 10 of those regulations is attached as Exhibit 5. This reduces Swinomish fishing opportunity by
 11 20% during this opener alone, and may result in an even greater loss of fishing opportunity if the
 12 tribes still exceed the 50% tribal share of the quota during this opener and cannot engage in
 13 anticipated openers later this summer and in the winter.

14 *39. Increased risk of exceeding the 50% tribal share of the quota:* As indicated above and for
 15 the reasons explained in detail in the Declaration of James D. Gibson, Lummi participation in the
 16 Region 2E crab fishery significantly increases the risk of the tribes collectively exceeding their
 17 50% tribal share of the quota.

18 *40. Physical interference with Swinomish fishers:* Many of the waters in Region 2E are
 19 constricted waters that already get crowded with vessels and gear during commercial crab
 20 openers. If Lummi participates in the fishery and more than doubles the number of vessels and
 21 amount of gear in the water, it will only exacerbate this problem and cause physical interference
 22 with Swinomish fishers' ability to set and work their gear.

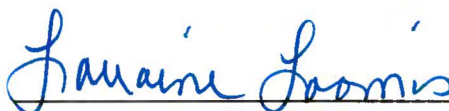
23 *41.* For all of these reasons and others, Lummi participation in the Region 2E crab fishery
 24 before it has established its right to do so will harm Swinomish and its members not only
 25 commercially but culturally and spiritually. This Court should not allow that to happen.

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1 I declare under penalty of perjury that the foregoing is true and correct.

2 DATED this 30th day of May, 2018, on the Swinomish Indian Reservation near La Conner,
3 Washington.

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6 Lorraine Loomis
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CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2018, I electronically filed the **Declaration of Lorraine Loomis** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties registered for electronic service with the CM/ECF system.

By: /s/ James M. Jannetta
James M. Jannetta, WSBA No. 36525
Counsel for Swinomish Indian Tribal Community

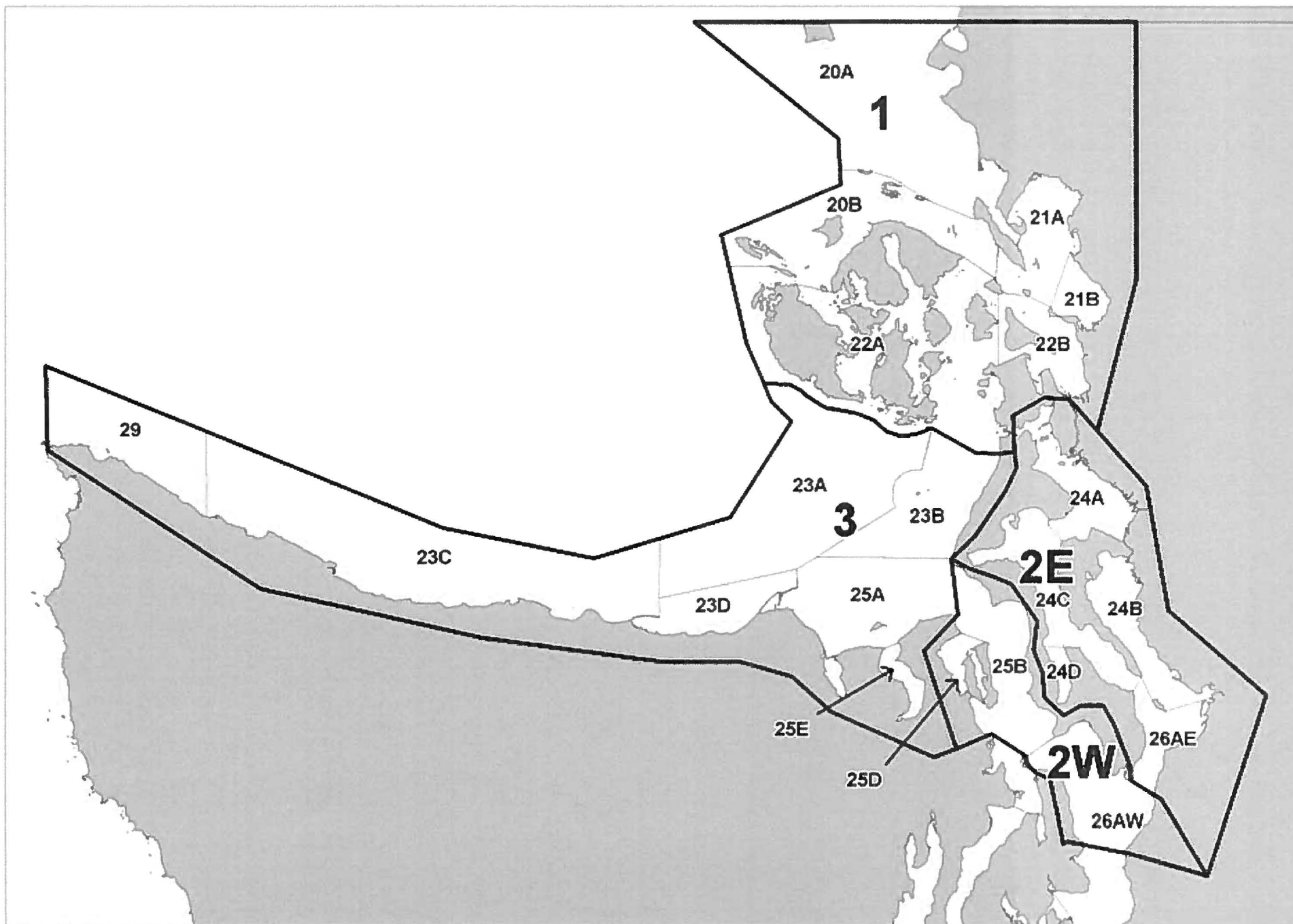
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EXHIBIT 1

PUGET SOUND COMMERCIAL CRAB MANAGEMENT REGIONS AND CORRESPONDING MARINE FISH/SHELLFISH CATCH AREAS



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EXHIBIT 2



LUMMI INDIAN BUSINESS COUNCIL

2665 Kwina Road, Bellingham, WA 98226. (360) 312-2000

Natural Resources Department. Fax: (360) 380-6989

2018-27 REGION 2E CRAB 4.6 REGULATION

Filing Date: 5/17/2018

Supersedes Reg: None

Filing Organization: Lummi

EFFECTIVE DATES:	Effective from May 31 2018 to June 02 2018, or until-superseded or Treaty harvest is taken
AFFECTED ORGANIZATIONS	WDFW, NWIFC, Point No Point Treaty Council, Suquamish, Tulalip, Swinomish, Upper Skagit, Port Gamble, Lower Elwha, and Jamestown Tribes
REG. SUPERSEDED	None
CATCH AREA	Catch Reporting Areas: 24A, 24B, 24C, 24D, and 26AE (or that portion of 26A north of a line from Possession Point on Whidbey Island to the shipwreck located 0.8 nautical miles north of Picnic Point on the opposite shore).
ON/OFF RESERVATION	Off
FISHERY TYPE	Commercial crab
LEGAL GEAR	Pot and ring gear
EXPECTED EFFORT	zero boats and zero fishers
DAYS/HOURS	OPEN: 8:00 a.m., Thursday, May 31, 2018 CLOSE: 8:00 p.m., Saturday, June 2, 2018 or when 1,100,000 pounds are harvested, whichever comes first.
RESTRICTIONS	<ol style="list-style-type: none"> 1. 50 pot maximum per boat. 2. Blue buoy tags are required for this fishery 3. The fishery may be closed on short notice as the quotas are approached. 4. The fish ticket information must be received by Dolly in the Natural Resources office by the close of business the day the catch is sold. The most appropriate method would be to fax the tickets to (360) 380-6989. 5. Must have valid treaty crab fishing ID card on person. 6. Pots must have two escape rings of not less than 4 1/4 " inside diameter located in the top half of the pot. An unobstructed, three by five inch biodegradable panel in the upper half of the pot or a biodegradable loop attached to the lid hook is required 7. Each pot must be attached to a surface buoy capable of floating with a 5-pound weight attached and clearly marked with registered owners fishing ID number. 8. Post must be registered with the Lummi Natural Resources Department. 9. Posts must be harvested by the registered owner on the boat identified at registration. 10. Illegal to possess females, males of less than 6 1/4-inch caliper measure across the back immediately in from of the tips, or males with soft shells. 11. All gear shall be removed from the water by the closure of the opening. 12. Pots may not be harvested between one half hour after sunset and one half hour before sunrise. 13. All crab landed but not sold must be reported on the fish ticket as take home. 14. Must comply with all provisions of Title 10
JUSTIFICATION	This regulation is a Shellfish Implementation Plan Paragraph 4.6 notice to proceed with a harvest in the absence of a co-manager agreement on the <u>2018-2019 Region 2 East Crab Harvest Management Plan</u> and is promulgated pursuant to Chapter 10.6 of the Lummi Law and Order Code.

DECLARATION OF LORRAINE LOOMIS

EXHIBIT 3

Gateway Pacific Terminal Vessel Traffic and Risk Assessment Study Task 17: Questionnaire for the Lummi Fishers

Prepared for
Pacific International Terminals, Inc.

Prepared by
The Glostén Associates, Inc.
in collaboration with
Environmental Research Consulting
Northern Economics, Inc.

File No. 12096.01
24 January 2013
Rev. P0



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References

1. *Revised Project Information Document; Gateway Pacific Terminal, Whatcom County, Washington*, Pacific International Terminals, March 2012.

Executive Summary

This Vessel Traffic and Risk Assessment Study (VTS) is being conducted by The Glosten Associates (Glosten) for the proposed Gateway Pacific Terminal (GPT) to be located at GPT/Cherry Point in Washington State. The purpose of the study is to assess the potential risks posed by new bulk carrier traffic that the proposed terminal will bring to the Puget Sound. The area studied includes the designated Puget Sound vessel transit lanes, the maneuvering area near the planned GPT terminal at GPT/Cherry Point, the local anchorage areas, and the transit routes for tugs assisting GPT traffic. Terminal operators estimate 487 total annual visits for the anticipated GPT-bound traffic at full build-out (Reference 1). Of the total vessel calls, it is projected that there will be 318 Panamax and 169 Capesize (up to 250,000 DWT) vessels.

Other than the development of the questionnaire, there were no specific deliverables or conclusions to be drawn in this effort. The questionnaire was used to gather data for:

- Task 12 – Incorporation of smaller vessels in the traffic analysis.
- Task 14 – Risk of collision with tribal vessels.
- Task 13 – Traffic impact on tribal fishing.

Towards this end, the questionnaire was effective in obtaining the requested information and also served to highlight issues the Lummi Fishers believe to be especially pertinent to the study.

Scope of Work per Professional Services Agreement¹

In order to make efficient use of time for both study contractor personnel and Lummi tribal fishers, the contractor will provide questions to the Lummi Natural Resources Department Director in writing prior to any meeting with Lummi fishermen. Questions regarding fleet wide statistics, practices or information may be answered by the Lummi Natural Resources (LNR) Department Director without further consultation. The LNR Director will assist contractor with refining any questions seeking information from individual tribal fishers and with arranging meeting(s) with tribal fishers.

¹ "Exhibit A, Scope of Services Task 17," *Professional Services Agreement between Pacific International Terminals, Inc. and the Glosten Associates, Gateway Pacific Terminal Vessel Traffic and Risk Assessment Study, Effective Date June 18, 2012.*

Introduction

The Lummi Department of Natural Resources (DNR) was given the questionnaire on November 13, 2012. A follow-up meeting was held in the Lummi offices on December 12, which was attended by the members of the Lummi DNR and approximately a dozen Lummi Fishers. At that meeting, a number of answers were obtained, and clarification provided on other questions to enable the Lummi to complete the questionnaire. On January 4, 2013, representatives from the Lummi DNR notified Glosten that all responses to the questionnaire were finalized.

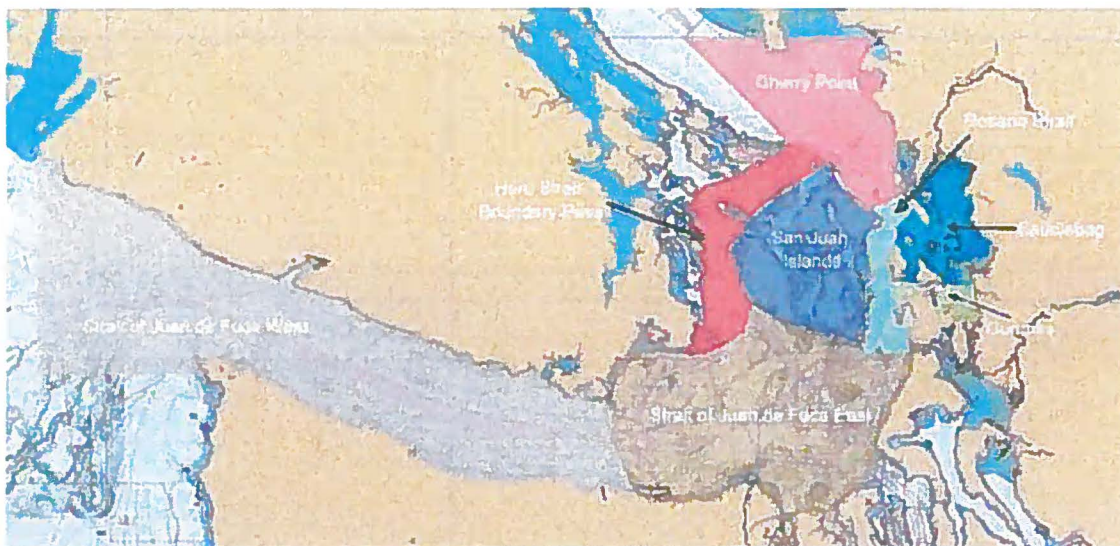
The purpose of the questionnaire, and the follow up meeting with Lummi representatives, was to obtain the following information from the Lummi nation:

- An evaluation of GPT-calling vessels' impact on the tribal fishing fleet, including gear loss, associated Homeland Security exclusion zones, and interference with fishing.
- An assessment of the increased vessel traffic impact on Lummi treaty rights to fish throughout the Lummi Nation's Usual and Accustomed grounds and stations.
- Statistical measurement of impact from the area that the Lummi are temporarily excluded from fishing, multiplied by the expected duration of the temporary exclusion.
- An assessment of the increased vessel usage of anchorages impact on Lummi treaty rights to fish using the same statistical measure: exclusionary area multiplied by duration.

While the Lummi did not respond to every survey question, the Lummi did supply additional information that was not requested that ultimately proved pertinent to the study.

The Lummi response to the questionnaire has been edited by Glosten for the purpose of "readability" and formatting. Questions not answered by the Lummi have been removed from the list of responses. Other written comments provided by the Lummi DNR have been incorporated into the text responding to each of the questions. Glosten's edits have been reviewed and found to be accurate by the Lummi DNR.

Questionnaire



Fisheries

1. What fisheries do the Lummi fishermen participate in?

Sockeye, pink, Chinook, Coho, chum, steelhead, crab, shrimp, halibut, clams, oysters, sea cucumber, sea urchin, geoduck.

2. Referring to the map above, please identify what types of fish that Lummis generally fish for in each area and check the corresponding boxes in Table 1, below. Also, please use a star to indicate the area where the most fishing takes place within each fishery.

Table 1 Lummi Fishing Locations

Fishery	Strait of Juan de Fuca West	Strait of Juan de Fuca East	Haro Strait-Boundary Pass	Rosario Strait	Saddlebag	Guemes Channel	Cherry Point	San Juan Islands
Salmon		X	X	X	X	X	X	X
Halibut		X	X	X	X	X	X	X
Dungeness Crab		X	X	X	X	X	X	X
Geoduck, Clams, and Oysters					X	X	X	X
Sea Urchins and Sea Cucumbers		X	X	X	X	X	X	X
Shrimp		X	X	X	X	X	X	X
Other								
Total		X	X	X	X	X	X	X

Note: If the "Other" row is filled out, please include the list of species that would apply to this group.

3. Please complete Table 2 with the volume in pounds of the annual Lummi fishery harvest for each fishery in each of the last three years (2009, 2010, 2011).

Table 2 Lummi Harvest Volumes, in pounds (2011)

Fishery	2009	2010	2011
Salmon	3,433,762	4,818,945	7,015,186
Halibut	33,355	94,888	109,799
Dungeness Crab	1,961,926	1,506,211	1,684,774
Geoduck, Clams, and Oysters	163,139	278,389	206,192
Sea Urchins and Sea Cucumbers	270,836	310,363	312,413
Shrimp	22,465	34,768	50,010
Other			
Total	5,885,483	7,043,564	9,378,374

4. Please fill out the cells in Table 3 to indicate what portion (percent of total pounds) of each fishery is commercial versus subsistence or ceremonial.

Table 3 Lummi Commercial, Subsistence, and Ceremonial Volumes, 2011

Fishery	Commercial	Subsistence/Ceremonial	Total Harvest
Salmon	95%	5%	100%
Halibut	95%	5%	100%
Dungeness Crab	95%	5%	100%
Geoduck, Clams, and Oysters	90%	10%	100%
Sea Urchins and Sea Cucumbers	100%	0%	100%
Shrimp	95%	5%	100%
Other			100%
Total			100%

Note: The sum of the two center columns should total 100 percent

5. Using the map on page 2, please estimate the percentage of time spent in each area during these fishing trips in the following table.

Table 4 Lummi Fishing Time Estimates

Fishery	Strait of Juan de Fuca West	Strait of Juan de Fuca East	Haro Strait-Boundary Pass	Rosario Strait	Saddlebag	Guemes Channel	Cherry Point	San Juan Islands
Salmon		10	10	10	35	5	20	10
Halibut		23	23	10	2	2	20	20
Dungeness Crab			10	10	10	5	55	10
Geoduck, Clams, and Oysters					46	4	46	4
Sea Urchins and Sea Cucumbers		10	10	10	5	10	10	45
Shrimp		23	25	10	5	2	15	20
Other								
Total								

Note: If the "Other" row is filled out, please include the list of species that would apply to this group.

Gear

6. We would like to learn more about reef net fisheries. Generally speaking, in which areas (as identified by the map on page 2) are the Lummi reef net sites that are used today?

Lummi currently does not fish any reef nets. However, they are in the process of getting some reef nets for fishing within the next year or two.

- a. How many vessels are typically at a reef net site?

Typically there are 3 vessels per reef net site. Lummi hopes to establish between 4-8 reef net sites in the near future.

- b. What is the level of activity at these sites, as measured in days per year?

Once the reef net sites are established, they would be fished approximately 20-30 days per year.

7. What is the primary gear used by tribal fishermen for halibut fishing?

Set-lines.

8. What portion of the total annual Lummi salmon harvests are caught using each gear type? Please fill out the shaded areas of Table 5 (the total column should equal 100 percent).

Table 5 Lummi Harvest Data by Gear Type, 2011

Fishery	Percent of Total Harvest					Total
	Drift Gillnet	Set Gillnet	Seine	Reef Net	Other	
Chinook	13	18	2			
Chum	16	12	5			
Coho	28	68	1			
Pink	3	2	66			
Sockeye	39		26			
Total	100	100	100			

9. Please provide any data that the tribe has on volume of gear lost by type, location, and year.

Lummi does not have systematically collected quantitative data on gear loss. In 2008, a gear loss forum was held with Lummi fishers and industry representatives. As part of this forum, the LNR Commission was asked to estimate the number of crab pots that were lost each year. Based on anecdotal information it was estimated that Lummi crab fishers lost an average of 40-50 pots per fisher per year. No estimates were determined for other types of gear loss (e.g., gill nets) due to vessel traffic.

- a. Is gear loss due to vessel traffic more common in some areas over others? Please explain in detail.

Yes, gear loss is more common in certain areas. Specifically, the tug and tanker holding areas in Saddlebag and Cherry Point, and shipping lanes throughout Lummi's U&A, including the Cherry Point, Haro Strait, Rosario Strait, Guemes Channel, and the Strait of JDF East.

- b. Are certain types of gear more likely to be interfered with by vessel traffic than others? Please explain in detail.

Crab pots are particularly susceptible to vessel traffic because of the number of days that crab fisheries are open and where crab fisheries take place. Shrimp pots are equally susceptible, but there are far fewer shrimping days over the course of a year. Halibut gear is also susceptible because shipping lanes overlap good halibut fishing grounds. Salmon gill nets and purse seines are vulnerable to vessel traffic, especially in the Cherry Point, Haro/Boundary Pass, and Rosario Strait regions.

In addition, fishing activities for all species are at risk of being interfered with by Homeland Security and their enforcement of exclusion zones. This interference can mean substantial lost fishing time for individual boats and fishers.

Vessel Activity

10. What is the breakdown of Lummi fishing vessels (seiners, gill netters, skiffs) by vessel type and size (length overall)? Please fill out the shaded areas of Table 6.

Table 6 Lummi Fishing Vessels by Size, 2011

Vessel Types	5-20 feet	20-30 feet	30-40 feet	40-50 feet	50-60 feet	60+ feet	Total Number
Seiners							
Gill Netters							
Skiffs							
Total	237	126	11		6	2	383

Fishing vessels are not registered according to vessel type. I added this row and reported the TOTAL number of Lummi fishing vessels registered by length.

Generally, fishing vessels under 22 feet are considered skiffs. Vessels over 22 feet (that are not seiners) are not necessarily gill netters, they could be crab boats, dive boats, etc.

The 8 boats listed here that are 50+feet are all seiners.

11. What is the total number of Lummi tribal vessels in each fishery, and how many actually participated in each fishery in 2011? Please fill out the shaded areas of Table 7.

Table 7 Number of Lummi fishers by species, 2011

Fishery	Fishers		Gill Netters		Skiffs	
	Total	Active	Total	Active	Total	Active
Salmon	325					
Halibut	61					
Dungeness Crab	167					
Geoduck, Clams, and Oysters	183					
Sea Urchins and Sea Cucumbers	22					
Shrimp	33					
Other						
Total	506					

Lummi does not track vessel participation in specific fisheries. As a proxy, I've reported the number of individual fishers that participated in each of the fisheries during the calendar year of 2011. Participation is defined as selling their catch at least once during the year.

These numbers do not include fishing in the Nooksack River or south of Admiralty Inlet.

It is reasonable to assume that for each species (except for salmon and clams/oysters), the number of fishers is roughly equivalent to the number of boats that are used to fish that specific species.

I would guess that the number of boats used in the 2011 salmon fisheries is between 160-200.

This is not the total for the column, but rather the total number of unique fishers that sold catch from a fishery in 2011

Generally, boats are not used in the harvest of clams and oysters. There are about 10-12 boats that participate in geoduck fisheries.

12. Is the number of participants in 2012 expected to be higher or lower than in 2011?

The number of fishers (and vessels) participating in any given year depends on the abundance of salmon, halibut, crab and shrimp in that year as well as the abundance of these species during immediately preceding years. The abundance of these species in previous years contributes to the ability of fishers to have the financial means to pay the overhead costs associated with being a commercial fisher. The number of participants in 2011 is probably similar to the number in 2012.

13. What is the estimated number of vessel traffic days that Lummi vessels are fishing in Puget Sound waters? Please estimate the average numbers of trips that Lummi vessels made by type and fishery in 2011, as well as the typical duration of each trip (one trip equals two transits). This estimate may be expressed in a range; for example, 20-25 trips, 8-12 hours each.

Table 8 Lummi Vessel Trips, 2011

Fishery	Total Landings		Gill Netters		Skiffs	
	Annual Trips	Length of Trips	Annual Trips	Length of Trips	Annual Trips	Length of Trips
Salmon	6418	6-12 hrs				
Halibut	216	8-14 hrs				
Dungeness Crab	4353	6-10 hrs				
Geoduck, Clams, and Oysters	3100					
Sea Urchins and Sea Cucumbers	754	6-12 hrs				
Shrimp	72	6-10 hrs				
Other						
Total	14913					

Lummi does not track the participation of vessels in individual fisheries. Here I have reported the number of landings, by species, for 2011, excluding any landings from the Nooksack River and south of Admiralty Inlet.

The number of landings can reasonably be considered a proxy for the number of vessel trips.

The length of each trip provided here is based on an educated guess of my experience with the fisheries for each species.

14. Please estimate the average annual (by month), number of Lummi fishing vessel trips (one trip equals two transits) for 1995 through 2010.

Table 9 Number of landings by year and month 1995-2010

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Jan	308	321	447	305	370	262	456	314	411	337	253	183	303	281	420	440
Feb	221	370	527	405	179	186	436	275	292	261	248	154	287	320	485	411
Mar	184	360	384	525	306	44	331	298	284	234	311	305	522	501	507	609
Apr	167	300	235	509	141	207	132	283	245	291	329	328	165	585	522	211
May	23	18	51	582	143	44	76	56	66	202	232	59	3	221	74	118
Jun	276	36	5	324	947	640	337	33	217	206	253	224	92	37	54	452
Jul	848	1091	659	1178	554	406	578	637	661	660	551	374	547	365	688	334
Aug	3660	1870	4015	1648	1046	1353	1451	1515	1748	1029	698	1363	872	1411	1287	1669
Sep	1608	1853	2953	1364	2609	1878	1847	1854	1583	1932	2451	2230	2338	2654	2473	2987
Oct	1447	1749	1497	1844	2220	1680	2302	1075	1654	2821	2329	2328	2062	1859	1815	2018
Nov	1028	890	844	664	745	776	1037	643	698	1057	528	598	693	588	642	849
Dec	509	375	467	348	401	519	297	674	407	423	327	440	362	349	532	415

The number of landings roughly equals the number of vessel trips. The landings provided in this table do not include landings from fishing in the Nooksack River or from south of Admiralty Inlet, nor do they include Manila clam landings, as they do not typically require a vessel trip.

Generally, the length of a vessel trip is associated with daylight hours. For example, a vessel trip in the summer might be 8-14 hours, while a trip in the winter might be 6-8 hours.

Table 10 Number of days that a landing occurred by year and month 1995-2010

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Jan	19	19	16	21	22	16	28	23	23	26	25	21	26	24	29	21
Feb	15	22	23	21	19	15	26	23	22	29	26	23	27	19	27	28
Mar	8	23	23	30	27	16	28	26	27	31	26	28	31	21	27	30
Apr	10	22	14	28	19	18	16	21	23	29	19	29	17	28	26	16
May	8	9	12	25	24	21	21	19	14	21	23	14	2	27	23	28
Jun	11	11	2	13	28	16	11	15	15	20	25	29	28	26	28	28
Jul	29	14	12	16	11	7	14	15	14	19	21	19	24	26	24	26
Aug	30	25	29	25	25	27	30	25	28	29	30	30	30	26	29	28

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Sep	22	27	29	26	26	27	27	29	24	29	30	29	29	29	30	30
Oct	28	31	31	31	31	31	31	28	30	31	31	31	31	31	30	31
Nov	30	27	29	29	30	29	30	19	29	27	22	24	27	28	24	28
Dec	30	15	24	24	25	26	23	27	26	26	25	26	22	20	23	22

15. Do shellfish harvesters typically travel to and from their harvesting areas using vessels? If so, please describe.

Vessel trips are not typically required for commercial manila clam openings, however, a vessel trip may occur for a ceremonial or subsistence manila clam harvest. Vessel trips are typically required for other shellfish openings such as crab, shrimp, geoduck, etc.

16. Where are most Lummi fishing vessels moored?

85% at Gooseberry Point (GB). 10% in Blaine (B). 5% in Bellingham Bay (BB)

Most of the boats that are "moored" at Gooseberry are actually trailered out of the water at the end of the day and stored in a boat yard. A handful of boats anchor at Gooseberry or tie up to a dock or pier.

17. Where are Lummi fish delivered? Please fill out the shaded areas of Table 11. If more than one location applies, specify the percentages delivered to each.

Table 11 Lummi Delivery Locations, 2011

Fishery	Delivery Location
Salmon	50% BB; 25% GB; 25% B
Halibut	75% GB; 25% B
Dungeness Crab	65% GB; 25% B; 10% BB
Geoduck, Clams, and Oysters	Kingston (Geoduck)
Sea Urchins and Sea Cucumbers	100% GB
Shrimp	100% GB
Other	

Fishery Management

18. Are tribal fisheries managed in terms of access days and times? If so, how?

Yes. Fisheries are opened during specific days, times and areas. The fishing schedules for some fisheries are set preseason, while other fisheries are planned only days ahead of time via conference call with other tribal and co-managers.

19. Are the tribe's scheduled opening and closure days the same as those for non-tribal fishermen?

Not typically.

20. How are Lummi (and other Indian) fishing vessels identified so that they can be distinguished from non-Indian fishing vessels?

Lummi vessels are identified with their ID number WN - ___ - XWL. The three spaces between the WN and the XWL are filled by numbers.

DECLARATION OF LORRAINE LOOMIS

EXHIBIT 4

SWINOMISH TRIBAL COMMUNITY SHELLFISH REGULATION

REGULATION NUMBER: RGN2E-18-CR001
DATE ADOPTED: May 17, 2018
SUPERSEDES REGULATION NUMBER: NONE
ON THE FOLLOWING DATE AND TIME: May 31, 2018 8:00 AM
.....

REGULATORY FISHERY PURPOSE: Commercial/Subsistence
SPECIES: Dungeness Crab
EXPECTED EFFORT: 70 Boats
.....

CATCH AREA: **Region 2E** (MFSF Catch Reporting Areas 24A, 24B, 24C, 24D, 26AE).

OPEN AREA: **Region 2E** (MFSF Catch Reporting Areas 24A, 24C, 24D and 26AE north and east of a line from Possession Point to the shipwreck located 0.8 nautical miles north of Picnic Point).

OPEN DAYS AND TIME:

OPEN: 8:00 AM Thursday May 31, 2018
CLOSED: 8:00 PM Saturday June 2, 2018
or when 1,100,000 pounds are harvested, whichever comes first, or by emergency regulation.

GEAR: Maximum of 50 pots or rings per boat. Buoy tags are required for this fishery.

RESTRICTIONS:

1. Must have valid Swinomish Tribal Community Crab Permit and Treaty Identification on person at all times.
2. Only standard commercial crab pots with two escape rings of not less than 4 1/4" inside diameter fixed on the upper half of the pot, and pot lid hooks or tie down straps attached with single strand or loop of untreated natural twine no larger thread than #120, or an opening in the pot mesh not less than three inches by five inches which is laced or sewn closed with untreated cotton twine or other natural fiber no larger than thread size #120. The opening must be located within the top half of the pot.
3. Each pot or string of pots must be attached to a surface buoy capable of floating with a 5 pound weight attached and clearly marked with the permit holders fishing ID number (enrollment number) or boat registration number.

4. Illegal to possess females, males of less than 6 1/4" caliper measure across the back immediately in front of the tips, or males with a soft shell.
5. No pots shall be picked between one hour after sunset and one hour before sunrise.
6. Subsistence and Ceremonial harvest of legal Dungeness Crab per the Swinomish Tribal Community Fishing Ordinance, by permit only.
7. All gear shall be removed from the water prior to the time of fishery closure.
8. It is unlawful to take crab out of crab pots marked with another fisherman's fishing ID number or tag #, without the expressed permission of that fisherman, as provided for in section 9 of this regulation.
9. Region 2 East Crab regulation for multiple boat owners and in the event of a mechanical breakdown will be in effect as adopted by the Swinomish Fish and Wildlife Commission Fishery Regulation dated August 23, 2016.
10. Crab weight must be recorded on each fish ticket by the buyer. All crab not sold to the buyer must be recorded on the fish ticket as TAKE HOME. The poundage of any crab rejected by a buyer must be recorded on the fish receiving ticket as "weigh back", but a zero dollar value may be entered for such crab. The weigh back code for crab on the fish tickets is grade 20-561.
11. All crab pots must be registered with the Swinomish enforcement department and must have the appropriate colored buoy tag, when required, attached at the terminal end of each buoy line. Tags are available at the fisheries enforcement department.
12. Region 2 East – Blue buoy tags required

It is Unlawful to:

1. Have crab on board a vessel while recovering pots after closure of the fishery.
2. Leave pots in the water in a fishing or non-fishing condition after a fishery has closed without notice to the tribal enforcement office of the number and location of pots.
3. Have on board a vessel, purchase or attempt to sell a female crab or male crab less than 6.25 inches measure across the back in front of the horns.
4. Have on board a vessel, purchase or attempt to sell soft crab.
5. There shall be no crab in transit to a buyer more than 4-hours after the close of a fishery.

JUSTIFICATION: Agreement between the State and Tribes has not been reached for the 2018-19 Region 2 East crab Harvest Management Plan. Pursuant to United States v. Washington, 898 F. Supp. 1453 (W.D. Wash. 1995), as amended, Stipulation and Order Amending Shellfish Implementation plan dated April 8, 2002, ("Implementation Order"), this fishery is opening in compliance with procedures described in Section 4.6 Opening A Fishery Without Agreement 14 day notification requirement, and harvestable surplus estimated not to exceed a treaty seasonal harvest of 1,100,000 pounds each party as proposed by the state at the May 11, 2018 state/tribal meeting subsequently agreed to by the tribes.

Swinomish will continue to work with all the parties to reach agreement for a 2018-19 Region 2 East Harvest Management Plan.

LORRAINE LOOMIS,
FISHERIES MANAGER



SUQUAMISH CRAB REGULATION

AFFECTED ORGANIZATIONS: WDFW, and AFFECTED TRIBES

DATE: May 17, 2018

REGULATION NUMBER 18-72S

REGULATIONS MODIFIED: None

SPECIES: Crab

FISHERY TYPE: Commercial and C&S

EFFECTIVE DATE: May 17, 2018

JUSTIFICATION: This regulation is filed under section 4.6 of the Court Implementation Order and Judgement filed August August 28, 1995 in U.S. v. Washington and amended April 6, 2002 in the absence of a Region 2 East annual crab management plan. Co-managers are actively working together to finalize the plan as soon as possible.

HARVEST LOCATIONS, POT LIMITS AND -SEASONS BY REGION:

This regulation lists harvest areas, harvest openings and harvest restrictions for Suquamish tribal fishers. This regulation may be amended by subsequent emergency regulations.

Region 2 East

Commercial

MFSFCA 26AE and 24B south of a line drawn from Camano Head Southeast to Mission Point.

Open: 8:00AM Thursday, May 31, 2018

Close: 8:00PM Saturday, June 2, 2008 or until 1.1 million pounds are collectively harvested by all tribes, whichever comes first

Gear limit: 50 pots per boat

Subsistence

MFSFCA 26AE and 24B south of a line drawn from Camano Head Southeast to Mission Point

Open: 8:00AM Thursday, May 31, 2018

Close: 6:00PM Sunday, September 30, 2018

EXPECTED EFFORT: Up to 30 boats in all areas combined

SUBSISTENCE LIMIT: Four pots and 6 crabs per ID holder per day unless otherwise noted. Harvesters must obtain a permit from the fisheries office.

HARVEST AREA DESCRIPTION:

Suquamish Crab Regulation 18-72S crab 05/17/18

page 1



Region 2 East

Area 24B shall include those waters of Port Susan south of Area 24A and north of a line from Camano Head on Camano Island to the north tip of Gedney Island and from the southern tip of Gedney Island east to the mainland.

Area 26A-E is defined as contiguous waters of 26A north and east of a line from Possession Point to the shipwreck located 0.8 nautical miles north of Picnic Point.

GEAR:

- In Region 4, each unattended pot must be attached to a surface buoy which is neither red and white or yellow in color. In other regions, strings of pots may be attached to one buoy according to the specification for each regional management plan. The buoy must be clearly marked with the license holder's Tribal fishing identification number (58XXX). Lines attaching buoys to pots must be weighted sufficiently to prevent the line from floating on the surface.
- In other regions, each pot or string of pots (longline) must be attached to a surface buoy that is capable of floating a 5-pound weight. Buoys attached to gear used for commercial fishing can be any color or color combination except half red and half white. If red and white buoy colors are used, a minimum of 30% of the surface buoy(s) will be prominently marked with an additional color other than red and white. Buoys shall be conspicuously marked with a registered identification number.
- All crab pots must have two escape rings not less than 4 1/4 inches inside diameter. Escape rings must be located on the top half of the pot.
- Each pot must have a 3-inch by 5-inch biodegradable cord panel (natural fiber, maximum thread size 120 or approx. 1/8 inch) or a biodegradable loop attached to the pot lid hook
- Pots, ring nets, and hand-operated instruments that do not penetrate the shell are the only lawful gear for crab harvest.
- No crab gear shall be tended more than one half-hour before sunrise or more than one half-hour after sunset.

SIZE AND SEX LIMIT:

- Minimum size for male crab is 6 1/4 inches. Minimum size is measured using a caliper across the back at the widest part of the shell immediately in front of, but not including the outside of, the tips.
- Retention of female and soft-shelled crab is prohibited and must be released immediately.

OTHER RESTRICTIONS:

- No harvest one half hour before sunrise and one half hour after sunset is allowed.
- Fishers must have in their possession at all times a valid Suquamish fishing ID with current year shellfish sticker on the back.
- Subsistence and ceremonial harvest requires the issuance of a permit by the Suquamish Fisheries Department.
- All gear must be removed from the water prior to the time of the fishery closure.



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- All crab retained for personal consumption or gifts must be recorded on fish tickets as take home.
 - All crab rejected from the buyer must be recorded on fish tickets as weigh back.
 - All non-legal crab must be returned to the water at the location where they were harvested. It is unlawful to discard crab anywhere else.

JUSTIFICATION:

All rules and manner of fishing pursuant to the 2017-18 regional Management Plans.

ENFORCEMENT CONTACT:

Mark Brennan

360-340-4526

CRAB 2E REGULATION NO:2018-161-016

TULALIP TRIBES FISHING REGULATION.

DATE: May 17, 2018

Region 2E 4.6 Crab Regulation. This regulation covers ceremonial, subsistence and commercial crab fishing.

SPECIES: Dungeness crab (*Metacarcinus magister*).

EFFECTIVE DATE: Effective May 17, 2018 and Supersedes previous Region 2E crab regulations of the Tulalip Tribes and remains in effect until modified or superseded.

REGION 2E CATCH AREAS: MFSF CA 24B, 24C (that portion of 24C south of a line due west from Camano City located on Camano Island), 24D & 26AE (that portion of 26A that is known as 26AE and defined as that area of 26A that is north and east of a line from Possession Point on Whidbey Island to the shipwreck located 0.8 nautical miles north of Picnic Point on the opposite shore).

AREAS OPEN TO FISHING: MFSF CA 24B, 24C, 24D & 26AE

SEASON:

Commercial Pot Fishery:

OPEN 8:00 AM Thursday, May 31, 2018

CLOSE 8:00 PM Saturday, June 2, 2018

Subsistence Pot Fishery:

OPEN 8:00 AM Thursday, May 31, 2018

CLOSED 6:00 PM Sunday, September 30, 2018

EXPECTED EFFORT: Commercial Fishing Vessels at 55 boats.

GEAR LIMITATIONS:

Commercial: Maximum of 50 pots per boat.

Subsistence: Maximum of 2 pots or rings per fisher and maximum 4 units of gear per boat.

LEGAL GEAR: All legal crab gear as described in the Tulalip General Fishing Regulations is covered by this regulation.

GEAR MARKING: All buoys must be marked with fisher identification number. Subsistence pots must have a subsistence tag attached to the buoy end of the line at the surface of the water, this buoy tag will be given out by the fisheries office with the subsistence permit.

HARVEST AMOUNT: The Tulalip Tribes recognize that they are party to a fishery that is entitled to 50% of the total allowable harvest of crab for the 2018-2019 management season. The current co-management agreed target identifies a State/Treaty combined regional quota of 2.2 million (1.1 million per side).

CATCH REPORTING: Commercial crab must be reported on Treaty Indian Fish Receiving Tickets. The following additional information, if possible, will be reported on the fish ticket: number of pots fished, hours of soaking time, and nearest landmark to the pots. Harvest will be reported to all affected parties by the 15th of the month.

REQUIRED IDENTIFICATION AND PERMITS: All persons engaged in crab fishing must have in their possession the official identification card for Tulalip Tribes fishing as defined in the Tulalip General Fishing Regulations. A crab pot owner's card is required for commercial pot fishing.

OTHER LIMITS/RESTRICTIONS:

1. Minimum size for male crab is 5 1/4 inches. Minimum size is measured using a caliper across the back at the widest part of the shell immediately in front of, but not

including the outside of the tips.

2. Retention of female crab is prohibited and all female crab must be released unharmed immediately.

3. All soft-shell crab must be released unharmed immediately at point of harvest.

Soft-shell crab has a shell that flexes easily with finger pressure.

4. All crab pots must have at least two escape rings not less than 4 1/4 inches inside diameter. Escape rings must be located on the top half of the pot.

5. Each pot must have a 3-inch by 5-inch biodegradable cord panel (natural fiber or untreated 100% cotton no larger than thread size 120 or approx. 1/8 inch) or a biodegradable loop attached to the pot lid hook.

6. Each pot or string of pots (long line) must be attached to a surface buoy that is capable of floating a 5-pound weight and visible on top of the water. Buoys attached to gear used for commercial fishing can be any color or color combination except half red and half white. If red and white buoy colors are used, a minimum of 30% of the surface buoy(s) will be prominently marked with an additional color other than red and white. Buoys shall be conspicuously marked with a registered Tribal identification number.

7. Pots, ring nets, and hand-operated instruments that do not penetrate the shell are the only lawful gear for crab harvest.

8. All commercial catch must be reported on Fish Receiving Tickets.

9. No crab gear shall be tended more than one half-hour before sunrise or more than one half-hour after sunset.

10. It will be unlawful for a crab fisher to remove or pull a crab pot from the water that is not registered by that fisher, without prior permission from their enforcement program.

11. No crab gear may be left unattended in areas that would conflict with other legal tribal fishing gear. Tulalip Bay is closed to commercial crab fishing under this regulation. Tulalip Bay Area is defined as that portion of MFSF CA 24B east of a line from Hermosa Point south to Mission Point

12. Random monitoring of catch will be conducted at the dock and a citation will be issued if any catch is found to contain soft-shell and/or undersize crab that exceeds 5% of the total catch by count.

13. All subsistence harvesters must possess a subsistence crab fishing permit obtained from the Tulalip Fisheries Office. All subsistence shellfish pots must have a subsistence tag attached to the buoy end of the line at the surface of the water, this buoy tag will be given out by the fisheries office with the subsistence permit. Subsistence harvesters are allowed 2 pots per permit and a limit of 2 permits per boat and a daily limit of 12 crab per permit. Commercial fishers taking landings home must report all take home on Treaty Indian Fish Receiving Ticket.

14. The sale of subsistence catch is strictly prohibited under this regulation.

15. Identification of Gear: All fishing gear shall be marked in such a way that the owner may be identified without the necessity of removing the gear from the water. Buoys shall be conspicuously marked with a fisher identification number. All unmarked gear and boats which are unattended, and any fish or shellfish found therein, may be seized by Tulalip Fisheries Enforcement.

16. All Dock sales and Take home catch that is harvested during a commercial opening must be reported to the Tulalip Fisheries office (360-716-4596) within 24 hours. If there is no answer, leave a message with the following information on Tribal ID, date of harvest, catch area, total pounds sold and any take home catch. All catch must be recorded on Fish Receiving Tickets.

17. Fishers that are mooring boats at the Port of Everett should check in on channel 16 when mooring boats and use the guest dock at the boat launch facility and fill out the forms at the dock.

JUSTIFICATION: Efforts between the State and Tribes have not resulted in a signed 2018-2019 Region 2E crab management agreement and pursuant to Section 4.6 of the Court Implementation Order and Judgement filed August 28, 1995, in U.S. v. Washington No. 9213, subproceeding 89-3, and amended April 6, 2002., the Tulalip Tribes propose to open this fishery.

TO SWINOMISH

FROM TULALIP TRIBES 17MAY18 1352EST 0031062H

PAGE 3 OF 3

EMERGENCY REGULATIONS: Any provision of the above may be modified at any time by emergency regulation.

THE TULALIP TRIBES

Jason Gobin

Director of Fisheries & Wildlife

UPPER SKAGIT 4.6 SHELLFISH REGULATION 2018

This regulation is a Shellfish Implementation Plan Paragraph 4.6 notice to proceed with a harvest in the absence of a Co-manager agreement for a 2018-2019 REGION 2E DUNGENESS CRAB HARVEST MANAGEMENT PLAN, FOR FISHERIES CONDUCTED BY, U.S. v. WASHINGTON SUBPROCEEDING 89-3 TREATY TRIBES AND THE STATE OF WASHINGTON and is promulgated pursuant to the Upper Skagit Indian Tribe Fishing Ordinance.

FILING ORGANIZATION: UPPER SKAGIT TRIBE
 REGULATION NUMBER: 4.6-CRBR2E-2018-1
 DATE ADOPTED: May 17, 2018
 REGULATION EFFECTIVE DATES: May 31, 2018 through February 1, 2019
 AFFECTED PARTIES: REGION 2E TRIBES/WDFW
 AMENDS REGULATION NUMBER: NONE
 ON THE FOLLOWING DATE AND TIME: May 31, 2018
 REGULATORY FISHERY PURPOSE: COMMERCIAL/SUBSISTENCE/CEREMONIAL
 SPECIES: DUNGENESS CRAB
 EXPECTED EFFORT: 15 Boats

CATCH AREAS: MFSF Catch Reporting Area 24C-24A

OPEN AREAS:

That portion of MFSF Catch Reporting Area 24C north of line drawn Lowell Point on Camano Island thence westward to Greenbank on Whidbey Island and south of a line drawn from Rocky Point on Camano Island to Sneatlum Point on Whidbey Island.

Open Days and Times: OPEN: 8:00 AM May 31, 2018
 CLOSE: 8:00 PM February 15, 2019 or when 1.1 million treaty lbs are harvested.

GEAR RESTRICTIONS: Maximum 50-tagged and registered pots per boat fished.

OTHER RESTRICTIONS:

1. Only enrolled Upper Skagit members who are currently registered and permitted through Upper Skagit Fisheries Department are allowed to engage in fishing for this fishery and said members must carry valid treaty fishing card on person while fishing.
2. Any Vessel used by a fisherman in this fishery must be registered through the Upper Skagit Fisheries Department and must have its valid and current Registration properly displayed on the hull of the vessel in at least three inch lettering.
3. Only standard commercial crab pots with escape rings of not less than 4 1/4" inside diameter and pot lid hooks are to be attached with untreated natural fiber (rot cord) no larger than #120.
4. Illegal to retain males, which caliper measure less than 6-1/4" across the back immediately in front of the tips. Every vessel must have a caliper which facilitates the accurate measuring of the crab on board
5. Each pot must have a 3- inch by 5- inch biodegradable cord panel (natural fiber, maximum thread size 120 of approx. 1/8 inch) or a biodegradable loop attached to the pot lid hook.
6. All females, shorts, and soft shell crabs must be released carefully back into the water immediately.
7. All pots shall be removed from water at time of closure and any crab pulled from a pot after a closure may not be sold or retained in the event that fisher unable to retrieve pots by time of closure enforcement must be contacted and the pots must be disabled with lid open and no bait left in pot.
8. No long lining of pots permitted.
9. All pots must have a buoy which buoy must be marked with the Fisherman's ID number.
10. Each pot/buoy must be tagged with the current 2018/19 Region 2E seasonal tag and

all previous seasonal tags must be removed.

11. No pots shall be pulled one half hour before official sunrise or one half hour after official sunset.

12. Unlawful for crab fisher to: (1) remove a crab pot from water that is not owned by fisher unless permission is given by the owner of the pot; (2) theft of a pot; or (3) damage to a pot or buoy/line

13. Prior to receiving permission to receive assistance in pulling of gear the Office of Tribal Attorney or enforcement can require: (1) inspection of gear to verify break down; and or (2) documentation of break down from motor repair shop.

14. Only enrolled Upper Skagit permitted members may be on a vessel engaged in this fishery.

15. Unlawful to possess or fish state sport crab buoy (50/50 Red and White) onboard boat during this fishery.

16. Enforcement shall monitor catch tickets on a daily basis. A catch reporting ticket is required for each landing.

17. Fisheries enforcement may come aboard any Upper Skagit Vessel at any time to act as observer on fishing boat to monitor regulation compliance.

18. All pots and buoys shall be marked or painted in a manner which shall allow fisheries enforcement to differentiate from other fishers pots and buoys in the fishery.

19. Catches will be monitored on a daily basis.

20. 2 pots, out of the 50 pot limit, may be used for subsistence.

21. Subsistence harvest must be reported on a fish ticket and provided to the fisheries department.

PENALTIES FOR VIOLATIONS MAY INCLUDE FINES UP TO \$2,500. SUSPENSION OF PRIVELEDGE UP TO 5 YEARS, LOSS OF BOAT AND GEAR FROM THE FISHERY. SEE RESOLUTIONS 2008-048A and 2009-032.

JUSTIFICATIONS: 4.6 required 14-day period waived by WDFW. Comanagers have not completed 2018/2019 Region II East Dungeness Crab Management Plan.

Emergency Regulations: This regulation may be modified at any time by emergency regulation.

Doreen Maloney,
Natural Resources Manager

DECLARATION OF LORRAINE LOOMIS

EXHIBIT 5

SWINOMISH TRIBAL COMMUNITY SHELLFISH REGULATION

REGULATION NUMBER: RGN2E-18-CR001A
 DATE ADOPTED: May 29, 2018
 MODIFIES REGULATION NUMBER: RGN2E-18-CR001
 ON THE FOLLOWING DATE AND TIME: May 31, 2018 8:00 AM

 REGULATORY FISHERY PURPOSE: Commercial/Subsistence
 SPECIES: Dungeness Crab
 EXPECTED EFFORT: 70 Boats

Delay of May 31, 2018 Opening

CATCH AREA: **Region 2E** (MFSF Catch Reporting Areas 24A, 24B, 24C, 24D, 26AE).

OPEN AREA: **Region 2E** (MFSF Catch Reporting Areas 24A, 24C, 24D and 26AE north and east of a line from Possession Point to the shipwreck located 0.8 nautical miles north of Picnic Point).

OPEN DAYS AND TIME:

OPEN: 12:00 PM Monday June 4, 2018
 CLOSED: 12:00 PM Wednesday June 6, 2018
 or when 1,100,000 pounds are harvested, whichever comes first, or by emergency regulation.

GEAR: Maximum of 50 pots or rings per boat. Buoy tags are required for this fishery.

RESTRICTIONS:

1. Must have valid Swinomish Tribal Community Crab Permit and Treaty Identification on person at all times.
2. Only standard commercial crab pots with two escape rings of not less than 4 1/4" inside diameter fixed on the upper half of the pot, and pot lid hooks or tie down straps attached with single strand or loop of untreated natural twine no larger thread than #120, or an opening in the pot mesh not less than three inches by five inches which is laced or sewn closed with untreated cotton twine or other natural fiber no larger than thread size #120. The opening must be located within the top half of the pot.
3. Each pot or string of pots must be attached to a surface buoy capable of floating with a 5 pound weight attached and clearly marked with the permit holders fishing ID number (enrollment number) or boat registration number.
4. Illegal to possess females, males of less than 6 1/4" caliper measure

the back immediately in front of the tips, or males with a soft shell.

5. No pots shall be picked between one hour after sunset and one hour before sunrise.
6. Subsistence and Ceremonial harvest of legal Dungeness Crab per the Swinomish Tribal Community Fishing Ordinance, by permit only.
7. All gear shall be removed from the water prior to the time of fishery closure.
8. It is unlawful to take crab out of crab pots marked with another fisherman's fishing ID number or tag #, without the expressed permission of that fisherman, as provided for in section 9 of this regulation.
9. Region 2 East Crab regulation for multiple boat owners and in the event of a mechanical breakdown will be in effect as adopted by the Swinomish Fish and Wildlife Commission Fishery Regulation dated August 23, 2016.
10. Crab weight must be recorded on each fish ticket by the buyer. All crab not sold to the buyer must be recorded on the fish ticket as TAKE HOME. The poundage of any crab rejected by a buyer must be recorded on the fish receiving ticket as "weigh back", but a zero dollar value may be entered for such crab. The weigh back code for crab on the fish tickets is grade 20-561.
11. All crab pots must be registered with the Swinomish enforcement department and must have the appropriate colored buoy tag, when required, attached at the terminal end of each buoy line. Tags are available at the fisheries enforcement department.
12. Region 2 East – Blue buoy tags required
13. Crab pot buoys are required to have the boat WN - NUMBER clearly marked on the side, branded buoys will need to have the WN - NUMBER painted on the opposite side of the buoy (the SWN ID is not required at the end of the number). Multiple boat owners must have a buoy color/markings scheme uniquely different from each of their other boats.

It is Unlawful to:

1. Have crab on board a vessel while recovering pots after closure of the fishery.
2. Leave pots in the water in a fishing or non-fishing condition after a fishery has closed without notice to the tribal enforcement office of the number and location of pots.
3. Have on board a vessel, purchase or attempt to sell a female crab or male crab less than 6.25 inches measure across the back in front of the horns.

4. Have on board a vessel, purchase or attempt to sell soft crab.
5. There shall be no crab in transit to a buyer more than 4-hours after the close of a fishery.

JUSTIFICATION: Agreement between the State and Tribes has not been reached for the 2018-19 Region 2 East crab Harvest Management Plan. Pursuant to United States v. Washington, 898 F. Supp. 1453 (W.D. Wash. 1995), as amended, Stipulation and Order Amending Shellfish Implementation plan dated April 8, 2002, ("Implementation Order"), this fishery is opening in compliance with procedures described in Section 4.6 Opening A Fishery Without Agreement 14 day notification requirement, and harvestable surplus estimated not to exceed a treaty seasonal harvest of 1,100,000 pounds each party as proposed by the state at the May 11, 2018 state/tribal meeting subsequently agreed to by the tribes.

Swinomish will continue to work with all the parties to reach agreement for a 2018-19 Region 2 East Harvest Management Plan.

LORRAINE LOOMIS,
FISHERIES MANAGER

CRAB 2E REGULATION NO:2018-161-023

TULALIP TRIBES FISHING REGULATION.

DATE: May 29, 2018

Region 2E 4.6 Crab Regulation. This regulation covers ceremonial, subsistence and commercial crab fishing.

SPECIES: Dungeness crab (*Metacarcinus magister*).

EFFECTIVE DATE: Effective May 29, 2018 and Supersedes previous Region 2E crab regulations of the Tulalip Tribes and remains in effect until modified or superseded.

OPENING DATE FOR FISHERY MOVED TO 6/4/18

REGION 2E CATCH AREAS: MFSF CA 24B, 24C (that portion of 24C south of a line due west from Camano City located on Camano Island), 24D & 26AE (that portion of 26A that is known as 26AE and defined as that area of 26A that is north and east of a line from Possession Point on Whidbey Island to the shipwreck located 0.8 nautical miles north of Picnic Point on the opposite shore).

AREAS OPEN TO FISHING: MFSF CA 24B, 24C, 24D & 26AE

SEASON:

Commercial Pot Fishery:

OPEN 12:00 PM (Noon) Monday, June 4, 2018

CLOSE 12:00 PM (Noon) Wednesday, June 6, 2018

Commercial Pot Fishery:

OPEN 12:00 PM (Noon) Sunday, June 10, 2018

CLOSE 12:00 PM (Noon) Tuesday, June 12, 2018

Subsistence Pot Fishery:

OPEN 12:00 PM (Noon) Monday, June 4, 2018

CLOSED 6:00 PM Sunday, September 30, 2018

EXPECTED EFFORT: Commercial Fishing Vessels at 55 boats.

GEAR LIMITATIONS:

Commercial: Maximum of 50 pots per boat.

Subsistence: Maximum of 2 pots or rings per fisher and maximum 4 units of gear per boat.

LEGAL GEAR: All legal crab gear as described in the Tulalip General Fishing Regulations is covered by this regulation.

GEAR MARKING: All buoys must be marked with fisher identification number. Subsistence pots must have a subsistence tag attached to the buoy end of the line at the surface of the water, this buoy tag will be given out by the fisheries office with the subsistence permit.

HARVEST AMOUNT: The Tulalip Tribes recognize that they are party to a fishery that is entitled to 50% of the total allowable harvest of crab for the 2018-2019 management season. The current co-management agreed target identifies a State/Treaty combined regional quota of 2.2 million (1.1 million per side).

CATCH REPORTING: Commercial crab must be reported on Treaty Indian Fish Receiving Tickets. The following additional information, if possible, will be reported on the fish ticket: number of pots fished, hours of soaking time, and nearest landmark to the pots. Harvest will be reported to all affected parties by the 15th of the month.

REQUIRED IDENTIFICATION AND PERMITS: All persons engaged in crab fishing must have in

their possession the official identification card for Tulalip Tribes fishing as defined in the Tulalip General Fishing Regulations. A crab pot owner's card is required for commercial pot fishing.

OTHER LIMITS/RESTRICTIONS:

1. Minimum size for male crab is 5 1/4 inches. Minimum size is measured using a caliper across the back at the widest part of the shell immediately in front of, but not including the outside of the tips.
2. Retention of female crab is prohibited and all female crab must be released unharmed immediately.
3. All soft-shell crab must be released unharmed immediately at point of harvest. Soft-shell crab has a shell that flexes easily with finger pressure.
4. All crab pots must have at least two escape rings not less than 4 1/4 inches inside diameter. Escape rings must be located on the top half of the pot.
5. Each pot must have a 3-inch by 5-inch biodegradable cord panel (natural fiber or untreated 100% cotton no larger than thread size 120 or approx. 1/8 inch) or a biodegradable loop attached to the pot lid hook.
6. Each pot or string of pots (long line) must be attached to a surface buoy that is capable of floating a 5-pound weight and visible on top of the water. Buoys attached to gear used for commercial fishing can be any color or color combination except half red and half white. If red and white buoy colors are used, a minimum of 30% of the surface buoy(s) will be prominently marked with an additional color other than red and white. Buoys shall be conspicuously marked with a registered Tribal identification number.
7. Pots, ring nets, and hand-operated instruments that do not penetrate the shell are the only lawful gear for crab harvest.
8. All commercial catch must be reported on Fish Receiving Tickets.
9. No crab gear shall be tended more than one half-hour before sunrise or more than one half-hour after sunset.
10. It will be unlawful for a crab fisher to remove or pull a crab pot from the water that is not registered by that fisher, without prior permission from their enforcement program.
11. No crab gear may be left unattended in areas that would conflict with other legal tribal fishing gear. Tulalip Bay is closed to commercial crab fishing under this regulation. Tulalip Bay Area is defined as that portion of MFSF CA 24B east of a line from Hermosa Point south to Mission Point.
12. Random monitoring of catch will be conducted at the dock and a citation will be issued if any catch is found to contain soft-shell and/or undersize crab that exceeds 6% of the total catch by count.
13. All subsistence harvesters must possess a subsistence crab fishing permit obtained from the Tulalip Fisheries Office. All subsistence shellfish pots must have a subsistence tag attached to the buoy end of the line at the surface of the water, this buoy tag will be given out by the fisheries office with the subsistence permit. Subsistence harvesters are allowed 2 pots per permit and a limit of 2 permits per boat and a daily limit of 12 crab per permit. Commercial fishers taking landings home must report all take home on Treaty Indian Fish Receiving Ticket.
14. The sale of subsistence catch is strictly prohibited under this regulation.
15. Identification of Gear: All fishing gear shall be marked in such a way that the owner may be identified without the necessity of removing the gear from the water. Buoys shall be conspicuously marked with a fisher identification number. All unmarked gear and boats which are unattended, and any fish or shellfish found therein, may be seized by Tulalip Fisheries Enforcement.
16. All Dock sales and Take home catch that is harvested during a commercial opening must be reported to the Tulalip Fisheries office (360-716-4595) within 24 hours. If there is no answer, leave a message with the following information on Tribal ID, date of harvest, catch area, total pounds sold and any take home catch. All catch must be recorded on Fish Receiving Tickets.
17. Fishers that are mooring boats at the Port of Everett should check in on channel 16 when mooring boats and use the guest dock at the boat launch facility and fill out the forms at the dock.

JUSTIFICATION: Efforts between the State and Tribes have not resulted in a signed 2018-2019 Region 2E crab management agreement and pursuant to Section 4.6 of the Court Implementation Order and Judgment filed August 28, 1995, in U.S. v. Washington No. 9213, subproceeding 89-3, and amended April 6, 2002., the Tulalip Tribes propose to open this fishery.

EMERGENCY REGULATIONS: Any provision of the above may be modified at any time by emergency regulation.

THE TULALIP TRIBES
Jason Gobin
Director of Fisheries & Wildlife



SUQUAMISH CRAB REGULATION

AFFECTED ORGANIZATIONS: WDFW, and **AFFECTED TRIBES**

DATE: May 29, 2018

REGULATION NUMBER 18-77S

REGULATIONS MODIFIED: 18-72S

SPECIES: Crab

FISHERY TYPE: Commercial and C&S

EFFECTIVE DATE: May 29, 2018

JUSTIFICATION: This regulation is filed under section 4.6 of the Court Implementation Order and Judgement filed August August 28, 1995 in U.S. v. Washington and amended April 6, 2002 in the absence of a Region 2 East annual crab management plan. Co-managers are actively working together to finalize the plan as soon as possible.

HARVEST LOCATIONS, POT LIMITS AND -SEASONS BY REGION:

This regulation lists harvest areas, harvest openings and harvest restrictions for Suquamish tribal fishers. This regulation may be amended by subsequent emergency regulations.

Region 2 East

Commercial

MFSFCA 26AE and 24B south of a line drawn from Camano Head Southeast to Mission Point.

Open: 12:00PM (Noon) Monday, June 4, 2018

Close: 12:00PM (Noon) Wednesday, June 6, 2018 or until 1.1 million pounds are collectively harvested by all tribes, whichever comes first

Gear limit: 50 pots per boat

Subsistence

MFSFCA 26AE and 24B south of a line drawn from Camano Head Southeast to Mission Point

Open: 12:00PM (Noon) Monday, June 4, 2018

Close: 6:00PM Sunday, September 30, 2018

EXPECTED EFFORT: Up to 30 boats in all areas combined

SUBSISTENCE LIMIT: Four pots and 6 crabs per ID holder per day unless otherwise noted. Harvesters must obtain a permit from the fisheries office.

HARVEST AREA DESCRIPTION:

Suquamish Crab Regulation 18-77S crab 05/29/18

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Region 2 East

Area 24B shall include those waters of Port Susan south of Area 24A and north of a line from Camano Head on Camano Island to the north tip of Gedney Island and from the southern tip of Gedney Island east to the mainland.

Area 26A-E is defined as contiguous waters of 26A north and east of a line from Possession Point to the shipwreck located 0.8 nautical miles north of Picnic Point.

GEAR:

- In Region 4, each unattended pot must be attached to a surface buoy which is neither red and white or yellow in color. In other regions, strings of pots may be attached to one buoy according to the specification for each regional management plan. The buoy must be clearly marked with the license holder's Tribal fishing identification number (58XXX). Lines attaching buoys to pots must be weighted sufficiently to prevent the line from floating on the surface.
- In other regions, each pot or string of pots (longline) must be attached to a surface buoy that is capable of floating a 5-pound weight. Buoys attached to gear used for commercial fishing can be any color or color combination except half red and half white. If red and white buoy colors are used, a minimum of 30% of the surface buoy(s) will be prominently marked with an additional color other than red and white. Buoys shall be conspicuously marked with a registered identification number.
- All crab pots must have two escape rings not less than 4 1/4 inches inside diameter. Escape rings must be located on the top half of the pot.
- Each pot must have a 3-inch by 5-inch biodegradable cord panel (natural fiber, maximum thread size 120 or approx. 1/8 inch) or a biodegradable loop attached to the pot lid hook
- Pots, ring nets, and hand-operated instruments that do not penetrate the shell are the only lawful gear for crab harvest.
- No crab gear shall be tended more than one half-hour before sunrise or more than one half-hour after sunset.

SIZE AND SEX LIMIT:

- Minimum size for male crab is 6 1/4 inches. Minimum size is measured using a caliper across the back at the widest part of the shell immediately in front of, but not including the outside of, the tips.
- Retention of female and soft-shelled crab is prohibited and must be released immediately.

OTHER RESTRICTIONS:

- No harvest one half hour before sunrise and one half hour after sunset is allowed.
- Fishers must have in their possession at all times a valid Suquamish fishing ID with current year shellfish sticker on the back.
- Subsistence and ceremonial harvest requires the issuance of a permit by the Suquamish Fisheries Department.
- All gear must be removed from the water prior to the time of the fishery closure.



- All crab retained for personal consumption or gifts must be recorded on fish tickets as take home.
- All crab rejected from the buyer must be recorded on fish tickets as weigh back.
- All non-legal crab must be returned to the water at the location where they were harvested. It is unlawful to discard crab anywhere else.

JUSTIFICATION:

All rules and manner of fishing pursuant to the 2017-18 regional Management Plans.

ENFORCEMENT CONTACT:

Mark Brennan

360-340-4526

UPPER SKAGIT 4.6 SHELLFISH REGULATION 2018

This regulation is a Shellfish Implementation Plan Paragraph 4.6 notice to proceed with a harvest in the absence of a Co-manager agreement for a 2018-2019 REGION 2E DUNGENESS CRAB HARVEST MANAGEMENT PLAN, FOR FISHERIES CONDUCTED BY, U.S. v. WASHINGTON SUBPROCEEDING 89-3 TREATY TRIBES AND THE STATE OF WASHINGTON and is promulgated pursuant to the Upper Skagit Indian Tribe Fishing Ordinance.

FILING ORGANIZATION: UPPER SKAGIT TRIBE
 REGULATION NUMBER: 4.6-CRBR2E-2018-1a
 DATE ADOPTED: May 29, 2018
 REGULATION EFFECTIVE DATES: May 31, 2018 through February 1, 2019
 AFFECTED PARTIES: REGION 2E TRIBES/WDFW
 AMENDS REGULATION NUMBER: 4.6-CRBR2E-2018-1
 ON THE FOLLOWING DATE AND TIME: June 4, 2018
 REGULATORY FISHERY PURPOSE: COMMERCIAL/SUBSISTENCE/CEREMONIAL
 SPECIES: DUNGENESS CRAB
 EXPECTED EFFORT: 15 Boats

CATCH AREAS: MFSF Catch Reporting Area 24C-24A
 OPEN AREAS: That portion of MFSF Catch Reporting Area 24C north of line drawn Lowell Point on Camano Island thence westward to Greenbank on Whidbey Island and south of a line drawn from Rocky Point on Camano Island to Sneatlum Point on Whidbey Island.

Open Days and Times: OPEN: 12:00 PM June 4, 2018
 CLOSE: 12:00 PM June 6, 2018
 OPEN: 12:00 PM June 10, 2018
 CLOSE: 12:00 PM June 12, 2018

GEAR RESTRICTIONS: Maximum 50-tagged and registered pots per boat fished.

OTHER RESTRICTIONS:

1. Only enrolled Upper Skagit members who are currently registered and permitted through Upper Skagit Fisheries Department are allowed to engage in fishing for this fishery and said members must carry valid treaty fishing card on person while fishing.
2. Any Vessel used by a fisherman in this fishery must be registered through the Upper Skagit Fisheries Department and must have its valid and current Registration properly displayed on the hull of the vessel in at least three inch lettering.
3. Only standard commercial crab pots with escape rings of not less than 4 1/4" inside diameter and pot lid hooks are to be attached with untreated natural fiber (rot cord) no larger than #120.
4. Illegal to retain males, which caliper measure less than 5-1/4" across the back immediately in front of the tips. Every vessel must have a caliper which facilitates the accurate measuring of the crab on board
5. Each pot must have a 3- inch by 5- inch biodegradable cord panel (natural fiber, maximum thread size 120 of approx. 1/8 inch) or a biodegradable loop attached to the pot lid hook.
6. All females, shorts, and soft shell crabs must be released carefully back into the water immediately.
7. All pots shall be removed from water at time of closure and any crab pulled from a pot after a closure may not be sold or retained in the event that fisher unable to retrieve pots by time of closure enforcement must be contacted and the pots must be disabled with lid open and no bait left in pot.
8. No long lining of pots permitted.

9. All pots must have a buoy which buoy must be marked with the Fisherman's ID number.
10. Each pot/buoy must be tagged with the current 2018/19 Region 2E seasonal tag and all previous seasonal tags must be removed.
11. No pots shall be pulled one half hour before official sunrise or one half hour after official sunset.
12. Unlawful for crab fisher to: (1) remove a crab pot from water that is not owned by fisher unless permission is given by the owner of the pot; (2) theft of a pot; or (3) damage to a pot or buoy/line
13. Prior to receiving permission to receive assistance in pulling of gear the Office of Tribal Attorney or enforcement can require: (1) inspection of gear to verify break down; and or (2) documentation of break down from motor repair shop.
14. Only enrolled Upper Skagit permitted members may be on a vessel engaged in this fishery.
15. Unlawful to possess or fish state sport crab buoy (50/50 Red and White) onboard boat during this fishery.
16. Enforcement shall monitor catch tickets on a daily basis. A catch reporting ticket is required for each landing.
17. Fisheries enforcement may come aboard any Upper Skagit Vessel at any time to act as observer on fishing boat to monitor regulation compliance.
18. All pots and buoys shall be marked or painted in a manner which shall allow fisheries enforcement to differentiate from other fishers pots and buoys in the fishery.
19. Catches will be monitored on a daily basis.
20. 2 pots, out of the 50 pot limit, may be used for subsistence.
21. Subsistence harvest must be reported on a fish ticket and provided to the fisheries department.

PENALTIES FOR VIOLATIONS MAY INCLUDE FINES UP TO \$2,500. SUSPENSION OF PRIVILEGE UP TO 5 YEARS, LOSS OF BOAT AND GEAR FROM THE FISHERY. SEE RESOLUTIONS 2008-048A and 2009-032.

JUSTIFICATIONS: 4.6 required 14-day period waived by WDFW. Comanagers have not completed 2018/2019 Region II East Dungeness Crab Management Plan.

Emergency Regulations: This regulation may be modified at any time by emergency regulation.

Doreen Maloney,
Natural Resources Manager